UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 23 2010

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail #7009-2820-0002-1759-3944

In Reply Refer to:
EPA File No. 08R-10-R5

[redacted]

Re: Rejection of Administrative Complaint

Dear Ms. Dunn:

This letter is in reference to your administrative complaint filed on March 31, 2010, with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR), on behalf of your organization entitled Summer Toxic. Your complaint alleges that the operation of chemical plants and landfills in Cincinnati, Ohio, near the Winton Hills community, violates Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulations implementing Title VI, found at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of discrimination complaints to determine acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

After careful consideration, OCR must reject your complaint because it does not meet all of the jurisdictional requirements described in EPA's nondiscrimination regulations. Specifically, it does not describe a discriminatory act which occurred within 180 calendar days of the filing of your complaint.

The complaint states that African American residents living near the chemical plants and landfills in the Winton Hills community of Ohio are experiencing adverse health effects and deaths due to landfills. Specifically, you allege the landfills contain dead animals and garbage. You also allege that the chemical plants are emitting toxics, particulate matter, methane, smog, and asbestos. In a letter dated April 29, 2010, OCR sought clarification regarding your administrative complaint. Specifically, a description of the specific act(s) taken (or not taken) by each alleged recipient(s) and/or entity; and the date(s) of when each alleged discriminatory act(s) occurred.

In your June 17, 2010, response you named various recipients and described the alleged committed act(s) of discrimination. However, you did not identify the date(s) associated with each identifiable act(s) of discrimination. As stated above, a complaint must be filed no later than 180 days after the date of the last alleged discriminatory act(s). Because you did not provide the information as requested, your complaint must be rejected.

Your complaint also contains claims regarding the operation of the landfills and chemical plants which had a discriminatory impact on low-income residents of color. Neither Title VI nor EPA's nondiscrimination regulations cover discrimination on the basis of income. OCR, therefore, must also reject these claims. Finally, your complaint names EPA Region V as a recipient. Title VI does not apply to the Federal government. Therefore, EPA cannot be considered an "applicant" or a "recipient" within the meaning of Title VI and its implementing regulations.

If you have any questions or need clarification regarding this letter, please contact Anthony Napoli of the OCR External Compliance and Complaints Program via Federal Relay Service 866-377-8642, and provide the relay operator his telephone number 202-233-0651. He may also be reached via electronic mail at Napoli.Anthony@epa.gov, or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460-1000.

Sincerely,

Rafael DeLeón

Rafael DeLeon
Acting Director

cc: Stephen G. Pressman, Associate General Counsel
Civil Rights and Finance Law Office (2399A)